Preparatory Committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons: reiterating the urgency of its implementation

Working paper submitted by New Zealand on behalf of the New Agenda Coalition (Brazil, Egypt, Ireland, Mexico, New Zealand and South Africa)*

1. For some years now, division has become increasingly apparent among States parties to the Treaty on the Non-Proliferation of Nuclear Weapons. This division is not over the value of the Treaty itself; affirmation of the Treaty and of its object and purpose is as widespread as ever, including on the part of the New Agenda Coalition. But reluctance on the part of the nuclear-weapon States to move forward on nuclear disarmament has diminished the sense of common purpose with regard to the importance of the "grand bargain" of the Non-Proliferation Treaty and, in particular, regarding what is necessary for the full implementation of the nuclear disarmament obligation in article VI.

2. The inclusion of article VI in the Non-Proliferation Treaty was key to persuading States that do not possess nuclear weapons to sign the Treaty, whereby non-nuclear-weapon States renounce any right to possess nuclear weapons based on the reciprocal undertaking by nuclear-weapon States to eliminate their nuclear weapons arsenals. In this regard, article VI specifically obliges all States parties to "pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control".

3. Through the consensual outcomes of a number of review conferences, namely, those held in 1995, 2000 and 2010, States parties have, often repeatedly, identified and committed to a range of measures that would serve to advance the implementation of article VI. The failure of nuclear-weapon States to move forward in a serious and concerted way on most of these agreed measures is undermining the strength and credibility of the Treaty and the usefulness of the review process itself.

4. Some have found it convenient to suggest that the increasing division among States parties to the Non-Proliferation Treaty has come about not as a result of the failure of the nuclear-weapon States to act in conformity with article VI, but instead

* The New Agenda Coalition reiterates that working papers NPT/CONF.2020/PC.I/WP.9 and NPT/CONF.2020/PC.I/WP.13, submitted for the first session of the Preparatory Committee for the 2020 Review Conference, remain contributions for consideration during the current review cycle.

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as a result of the Humanitarian Initiative and the recent adoption of the Treaty on the Prohibition of Nuclear Weapons. Such an assertion might have had some credibility if there were anything in the text of that Treaty that could stand in the way of the fulfilment by any State party of its obligations and commitments under the Non-Proliferation Treaty, including any of the undertakings agreed upon at review conferences, but there is not. Indeed, as the New Agenda Coalition and many other supporters of the Treaty on the Prohibition of Nuclear Weapons have substantiated on a number of occasions, that Treaty reaffirms the Non-Proliferation Treaty as the cornerstone of the nuclear disarmament and non-proliferation regime and complements and strengthens the obligations contained within it.

5. Instead, the lack of follow-through on the implementation of article VI and efforts to reinterpret it or roll back undertakings given in the review process continue to be the main source of division among States parties to the Non-Proliferation Treaty. For ease of reference, and as a reminder of the common ground which has been accepted by all States parties, these obligations and related commitments are set out below.

Article VI and existing commitments

Article VI of the Non-Proliferation Treaty

6. Under article VI of the Non-Proliferation Treaty, "each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control".

1995 Review and Extension Conference

7. As part of the package agreed at the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, which included a resolution on the Middle East and a decision on a strengthened review process, the decision on principles and objectives for nuclear non-proliferation and disarmament called for three measures that were recognized as important for the full realization and effective implementation of article VI:

(a) The completion by the Conference on Disarmament of the negotiations on a universal and internationally and effectively verifiable Comprehensive Nuclear-Test-Ban Treaty no later than 1996. Pending the entry into force of a Comprehensive Nuclear-Test-Ban Treaty, the nuclear-weapon States should exercise utmost restraint;

(b) The immediate commencement and early conclusion of negotiations on a non-discriminatory and universally applicable convention banning the production of fissile material for nuclear weapons or other nuclear explosive devices;

(c) The determined pursuit by the nuclear-weapon States of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons.

2000 Review Conference

8. The 2000 Review Conference agreed on 13 practical "steps" to implement the nuclear disarmament obligation under article VI:

- **Step 1.** The early entry into force of the Comprehensive Nuclear-Test-Ban Treaty.
- **Step 2.** A moratorium on nuclear-weapon test explosions or any other nuclear explosions pending entry into force of that Treaty.

- **Step 3.** The necessity of negotiations in the Conference on Disarmament on a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices in accordance with the statement of the Special Coordinator of 1995 and the mandate contained therein, taking into consideration both nuclear disarmament and nuclear non-proliferation objectives.

- **Step 4.** The necessity of establishing in the Conference on Disarmament an appropriate subsidiary body with a mandate to deal with nuclear disarmament. The Conference on Disarmament is urged to agree on a programme of work which includes the immediate establishment of such a body.

- **Step 5.** The principle of irreversibility to apply to nuclear disarmament, nuclear and other related arms control and reduction measures.

- **Step 6.** An unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, to which all States parties are committed under article VI.

- **Step 7.** The early entry into force and full implementation of START II and the conclusion of START III as soon as possible while preserving and strengthening the Treaty on the Limitation of Anti-Ballistic Missile Systems as a cornerstone of strategic stability and as a basis for further reductions of strategic offensive weapons, in accordance with its provisions.

- **Step 8.** The completion and implementation of the Trilateral Initiative between the United States of America, the Russian Federation and the International Atomic Energy Agency (IAEA).

- **Step 9.** Steps by all the nuclear-weapon States leading to nuclear disarmament in a way that promotes international stability, and based on the principle of undiminished security for all:

(a) Further efforts by the nuclear-weapon States to reduce their nuclear arsenals unilaterally;

(b) Increased transparency by the nuclear-weapon States with regard to the nuclear weapons capabilities and the implementation of agreements pursuant to article VI and as a voluntary confidence-building measure to support further progress on nuclear disarmament;

(c) The further reduction of non-strategic nuclear weapons, based on unilateral initiatives and as an integral part of the nuclear arms reduction and disarmament process;

(d) Concrete agreed measures to further reduce the operational status of nuclear weapons systems;

(e) A diminishing role for nuclear weapons in security policies to minimize the risk that those weapons will ever be used and to facilitate the process of their total elimination;

(f) The engagement as soon as appropriate of all the nuclear-weapon States in the process leading to the total elimination of their nuclear weapons.

- **Step 10.** Arrangements by all nuclear-weapon States to place, as soon as practicable, fissile material designated by each of them as no longer required for military purposes under IAEA or other relevant international verification and arrangements for the disposition of such material for peaceful purposes, to ensure that such material remains permanently outside military programmes.

- **Step 11.** Reaffirmation that the ultimate objective of the efforts of States in the disarmament process is general and complete disarmament under effective international control.

- **Step 12.** Regular reports, within the framework of the strengthened review process for the Non-Proliferation Treaty, by all States parties on the implementation of article VI and of paragraph 4 (c) of the 1995 decision on principles and objectives for nuclear non-proliferation and disarmament, and recalling the advisory opinion of the International Court of Justice of 8 July 1996.

- **Step 13.** The further development of the verification capabilities that will be required to provide assurance of compliance with nuclear disarmament agreements for the achievement and maintenance of a nuclear-weapon-free world.

2010 Review Conference

9. The 2010 Review Conference agreed on an action plan that included concrete steps for the total elimination of nuclear weapons. The 22 actions relating to nuclear disarmament are as follows:

- **Action 1.** All States parties commit to pursue policies that are fully compatible with the Treaty and the objective of achieving a world without nuclear weapons.

- **Action 2.** All States parties commit to apply the principles of irreversibility, verifiability and transparency in relation to the implementation of their treaty obligations.

- **Action 3.** In implementing the unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals, the nuclear-weapon States commit to undertake further efforts to reduce and ultimately eliminate all types of nuclear weapons, deployed and non-deployed, including through unilateral, bilateral, regional and multilateral measures.

- **Action 4.** The Russian Federation and the United States commit to seek the early entry into force and full implementation of the Treaty on Measures for the Further Reduction and Limitation of Strategic Offensive Arms and are encouraged to continue discussions on follow-on measures in order to achieve deeper reductions in their nuclear arsenals.

- **Action 5.** The nuclear-weapon States commit to accelerate concrete progress on the steps leading to nuclear disarmament, contained in the Final Document of the 2000 Review Conference, in a way that promotes international stability, peace and undiminished and increased security. To that end, they are called upon to promptly engage with a view to, inter alia:

(a) Rapidly moving towards an overall reduction in the global stockpile of all types of nuclear weapons, as identified in action 3;

(b) Addressing the question of all nuclear weapons regardless of their type or their location as an integral part of the general nuclear disarmament process;

(c) Further diminishing the role and significance of nuclear weapons in all military and security concepts, doctrines and policies;

(d) Discussing policies that could prevent the use of nuclear weapons and eventually lead to their elimination, lessen the danger of nuclear war and contribute to the non-proliferation and disarmament of nuclear weapons;

(e) Considering the legitimate interest of non-nuclear-weapon States in further reducing the operational status of nuclear weapons systems in ways that promote international stability and security;

(f) Reducing the risk of accidental use of nuclear weapons;

(g) Further enhancing transparency and increasing mutual confidence.

- **Action 6.** All States agree that the Conference on Disarmament should immediately establish a subsidiary body to deal with nuclear disarmament, within the context of an agreed, comprehensive and balanced programme of work.

- **Action 7.** All States agree that the Conference on Disarmament should, within the context of an agreed, comprehensive and balanced programme of work, immediately begin discussion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, to discuss substantively, without limitation, with a view to elaborating recommendations dealing with all aspects of this issue, not excluding an internationally legally binding instrument.

- **Action 8.** All nuclear-weapon States commit to fully respect their existing commitments with regard to security assurances. Those nuclear-weapon States that have not yet done so are encouraged to extend security assurances to non-nuclear-weapon States parties to the Treaty.

- **Action 9.** The establishment of further nuclear-weapon-free zones, where appropriate, on the basis of arrangements freely arrived at among States of the region concerned, and in accordance with the 1999 Guidelines of the Disarmament Commission, is encouraged. All concerned States are encouraged to ratify the nuclear-weapon-free zone treaties and their relevant protocols, and to constructively consult and cooperate to bring about the entry into force of the relevant legally binding protocols of all such nuclear-weapon-free zones treaties, which include negative security assurances. The concerned States are encouraged to review any related reservations.

- **Action 10.** All nuclear-weapon States undertake to ratify the Comprehensive Nuclear-Test-Ban Treaty with all expediency, noting that nuclear-weapon States have the special responsibility to encourage Annex 2 countries, in particular those which have not acceded to the Treaty on the Non-Proliferation of Nuclear Weapons and continue to operate unsafeguarded nuclear facilities, to sign and ratify.

- **Action 11.** Pending the entry into force of the Comprehensive Nuclear-Test-Ban Treaty, all States commit to refrain from nuclear-weapon test explosions or any other nuclear explosions, the use of new nuclear weapons technologies and from any action that would defeat the object and purpose of that Treaty, and all existing moratoriums on nuclear-weapon test explosions should be maintained.

- **Action 12.** All States that have ratified the Comprehensive Nuclear-Test-Ban Treaty commit to report, at the 2011 Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty, on progress made towards the urgent entry into force of that Treaty.

- **Action 13.** All States that have ratified the Comprehensive Nuclear-Test-Ban Treaty undertake to promote the entry into force and implementation of that Treaty at the national, regional and global levels.

- **Action 14.** The Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization is to be encouraged to fully develop the verification regime for the Comprehensive Nuclear-Test-Ban Treaty, including early completion and provisional operationalization of the international monitoring system.

- **Action 15.** All States agree that the Conference on Disarmament should, within the context of an agreed, comprehensive and balanced programme of work, immediately begin negotiation of a treaty banning the production of fissile material for use in nuclear weapons or other nuclear explosive devices in accordance with the report of the Special Coordinator of 1995 (CD/1299) and the mandate contained therein.

- **Action 16.** The nuclear-weapon States are encouraged to commit to declare, as appropriate, to IAEA all fissile material designated by each of them as no longer required for military purposes and to place such material as soon as practicable under IAEA or other relevant international verification and arrangements for the disposition of such material for peaceful purposes.

- **Action 17.** In the context of action 16, all States are encouraged to support the development of appropriate legally binding verification arrangements, within the context of IAEA, to ensure the irreversible removal of fissile material designated by each nuclear-weapon State as no longer required for military purposes.

- **Action 18.** All States that have not yet done so are encouraged to initiate a process towards the dismantling or conversion for peaceful uses of facilities for the production of fissile material for use in nuclear weapons or other nuclear explosive devices.

- **Action 19.** All States agree on the importance of supporting cooperation among Governments, the United Nations, other international and regional organizations and civil society aimed at increasing confidence, improving transparency and developing efficient verification capabilities related to nuclear disarmament.

- **Action 20.** States parties should submit regular reports on the implementation of the action plan, as well as of article VI, and of paragraph 4 (c) of the 1995 decision on principles and objectives for nuclear non-proliferation and disarmament, and the practical steps agreed to in the Final Document of the 2000 Review Conference, and recalling the advisory opinion of the International Court of Justice of 8 July 1996.

- **Action 21.** As a confidence-building measure, all the nuclear-weapon States are encouraged to agree as soon as possible on a standard reporting form and to determine appropriate reporting intervals for the purpose of voluntarily providing standard information without prejudice to national security.

- **Action 22.** All States are encouraged to implement the recommendations contained in the report of the Secretary-General (A/57/124) regarding the United Nations study on disarmament and non-proliferation education, in order to advance the goals of the Treaty in support of achieving a world without nuclear weapons.

Towards 2020

10. However they have been phrased (including as actions or steps), the measures agreed upon in 1995, 2000 and 2010 represent clear indicators of what States parties to the Non-Proliferation Treaty have agreed as necessary for the implementation of the nuclear disarmament obligation in article VI.

11. States parties to the Non-Proliferation Treaty remain fully accountable for the implementation of those agreed disarmament measures. The New Agenda Coalition does not accept the notion put forward by the nuclear-weapon States and those committed to extended nuclear deterrence that further progress towards nuclear disarmament requires a more conducive international security environment. Rather,

it is the implementation of existing nuclear disarmament obligations and commitments that will contribute to improving the global environment. Such implementation is also imperative to sustain the health of our Non-Proliferation Treaty regime, which has been undermined by the ongoing failure to fulfil nuclear disarmament obligations and commitments and which is now also under threat from recent efforts to expand, modernize and qualitatively improve nuclear arsenals, and from intentions to increase the role of nuclear weapons in security doctrines.

12. The Preparatory Committee and the 2020 Review Conference are vital opportunities for all States parties, in particular the nuclear-weapon States, to demonstrate their commitment to the full implementation of the Treaty.

13. It is the responsibility of all States parties to the Non-Proliferation Treaty, whether or not they support the Treaty on the Prohibition of Nuclear Weapons, to move forward with urgency in implementing their obligations and commitments under article VI in order to maintain the good standing of the Treaty and its review process.